

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

|                               |   |                            |
|-------------------------------|---|----------------------------|
| IRON WORKERS' MID-AMERICA     | ) |                            |
| PENSION PLAN, <i>et al.</i> , | ) |                            |
|                               | ) |                            |
| Plaintiffs,                   | ) | CIVIL ACTION               |
|                               | ) |                            |
| vs.                           | ) | NO. 17 C 600               |
|                               | ) |                            |
| MERCEDES SECTION FIVE         | ) | JUDGE HARRY D. LEINENWEBER |
| INSTALLATIONS, INC.,          | ) |                            |
| an Illinois corporation,      | ) |                            |
|                               | ) |                            |
| Defendant.                    | ) |                            |

**MOTION FOR ENTRY OF JUDGMENT**

Plaintiffs, by and through their attorneys, default having been entered against the Defendant on May 9, 2017, request this Court enter judgment against Defendant, MERCEDES SECTION FIVE INSTALLATIONS, INC., an Illinois corporation. In support of that Motion, Plaintiffs state:

1. On May 9, 2017, this Court entered default against Defendant and granted Plaintiffs' request for an order directing an audit of the Defendant's payroll books and records. The Court also entered an order that judgment would be entered after the completion of the audit. The audit was to be completed within 30 days of the entry of said Order, or by June 8, 2017.

2. On December 22, 2016, Plaintiffs' auditors began the compliance audit. Completion of the audit was delayed by Defendant's refusal to provide all necessary records, to the point where the Court entered a body attachment order and Defendant's principal officer was brought before the Court by the U.S. Marshal's Service on May 9, 2018.

3. On October 15, 2018, Plaintiffs' auditors issued the audit report of the compliance audit of Defendant's payroll books and records conducted for the time period January 1, 2014 through December 31, 2016. The audit findings show that the Defendant is delinquent in contributions to the Funds in the amount of \$3,628.84. (See Affidavit of Joseph J. Burke).

4. Additionally, the amount of \$1,569.61 is due for liquidated damages for the audit period. (Burke Aff. Par. 5). Plaintiffs' auditing firm of Legacy Professionals, LLP charged Plaintiffs \$1,237.82 to perform the audit examination and complete the report (Burke Aff. Par. 6).

5. Defendant untimely submitted its fringe benefit contributions due for the time period June 2015 through October 2016. Accordingly, liquidated damages in the total amount of \$317.77 have been assessed against the Defendant.

6. Defendant untimely submitted its fringe benefit contributions due for the time period May 2016 through July 2016 and September 2016 through December 2016. Accordingly, liquidated damages in the total amount of \$473.87 have been assessed against the Defendant.

7. Plaintiffs have assessed a fee of \$200.00 for each check which was returned NSF, for a total of \$1,200.00 to Plaintiff Mid-America Pension Plan, and a total of \$1,200.00 to Plaintiff Mid-America Supplemental Monthly Annuity (SMA) Fund, as a result of Defendant's submission of fringe benefit contributions by way of checks which were subsequently dishonored by its bank for non-sufficient funds during the time period May 2016 through July 2016 and September 2016 through November 2016.

8. In addition, Plaintiffs' firm has expended the total amount of \$3,927.55 for costs and \$7,014.25 in attorneys' fees, for a total of \$10,941.80, in this matter. (See Affidavit of Catherine M. Chapman).

9. Based upon the documents attached hereto, Plaintiffs request entry of judgment in the total amount of \$20,569.71.

WHEREFORE, Plaintiffs respectfully request this Court to enter judgment in the amount of \$20,569.71.

/s/ Patrick N. Ryan

Patrick N. Ryan  
Attorney for Plaintiffs  
BAUM SIGMAN AUERBACH & NEUMAN, LTD.  
200 West Adams Street, Suite 2200  
Chicago, IL 60606-5231  
Bar No.: 6278364  
Telephone: (312) 216-2573  
Facsimile: (312) 236-0241  
E-Mail: [pryan@baumsigman.com](mailto:pryan@baumsigman.com)

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### **CERTIFICATE OF SERVICE**

The undersigned, an attorney of record, hereby certifies that he electronically filed the foregoing document (Motion) with the Clerk of Court using the CM/ECF system, and further certifies that I have mailed the above-referenced document by United States Mail to the following non-CM/ECF participants on or before the hour of 5:00 p.m. this 5th day of November 2018:

Mr. J. Steven Butkus, Registered Agent  
Mercedes Section Five Installations, Inc.  
Guerard Kalina & Butkus  
310 S. County Farm Road, Suite H  
Wheaton, IL 60187

Mr. Timothy Mercede, President  
Mercedes Section Five Installations, Inc.  
70 E. 23rd Street  
Chicago Heights, IL 60411

Mr. Timothy Mercede, President  
Mercedes Section Five Installations, Inc.  
57-73 E. 24th Street  
Chicago Heights, IL 60411

/s/ Patrick N. Ryan

Patrick N. Ryan  
Attorney for Plaintiffs  
BAUM SIGMAN AUERBACH & NEUMAN, LTD.  
200 West Adams Street, Suite 2200  
Chicago, IL 60606-5231  
Bar No.: 6278364  
Telephone: (312) 216-2573  
Facsimile: (312) 236-0241  
E-Mail: [pryan@baumsigman.com](mailto:pryan@baumsigman.com)